IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 31427 of 1998

Between:

1. A.Ballaiah, S/o Mallaiah, aged 44 years.

2. Ch.Edward Reddy (died per LR Ch.Yadamma w/o Edward

Reddy), aged about 42 years,

3. T.Anjaiah, S/o T.Mallaiah, aged 38 years

4. Israel, s/o Devadhanam, aged 30 years.

5. G.Satyanarayana Reddy,died per LR P11 s/o Mara Reddy, aged

50 years

6. P.Mani, s/o P.Thumpy, aged 29 years.

7. K.Subba Rao, s/o K.Guruvaiah, aged 28 years.

8. G.Krishna, s/o G.Rajaiah, aged 33 years.

9. M.Peddulu, s/o M.Goruvaiah, aged 39 years

10. E.Ramulu s/o M.Goruvaiah, aged 33 years.

11. G.Lalitha w/o late G.Satyanarayana Reddy

Petitioner No.11 brought on record as LR of deceased petitioner

No.5 as per Court order dated 1.10.2004 in W.P.M.P.No.22555 of

2004

All are unemployees and residents of Hyderabad.

..... PETITIONERS

AND

1. Additional Industrial Tribunal-cum-Additional

Labour Court, rep.by its Presiding Officer, Chandravihar

Building, 1st floor, M.J.Road, Hyderabad.

2. The Management of Indian Airlines, Central Training

Establishment, Simulator complex, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to call for the records from the 1st respondent and issue an appropriate writ, order or direction, particularly one in the nature of writ of certiorari, and quash the Award passed by the first respondent in I.D.Nos.121 of 1995 to 129of 1995 and 134 of 1995 dated 26.03.1998, published on 18.06.1998 as illegal, unjust and contrary to law and grant the relief of reinstatement into service to the petitioners with full back-wages and with all other attendant benefits.

Counsel for the Petitioners: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondentno.1: G.P. for Labour

Counsel for the Respondent No.2: MR.S.RAVINDRANATH

The Court made the following:

ORDER:

This writ petition is filed by the employees being aggrieved by the common Award

passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad in I.D.Nos.121 of 1995 to 129 of 1995 and 134 of 1995, dated 26.03.1998, wherein the claim petitions filed by the petitioners were rejected without granting any relief.

It is the case of the petitioners that they have joined the service of the second respondent establishment, which was imparting training to Pilots and Flight Engineers. The second respondent, in order to cater the needs of their trainees, established their restaurant for supplying food and room service to the Pilots and other trainee officers. The second respondent has employed the petitioners through their agent Kwality Restaurant, Secunderabad. They worked as such since 1976. While so the second respondent has terminated the service of the petitioners with effect from11.06.1984 in contravention of the A.P. Shops and Establishments Act and Section 25-F of the Industrial Disputes Act. The petitioners and others filed appeals before the authority under Section 41 of the A.P. Shops and Establishments Act. The said appeals were allowed by an order, dated 29.09.1987, directing the second respondent to reinstate them with continuity of service and full back-wages. Aggrieved by the same, the second respondent filed second appeals No.86 to 98 of 1987 before the Labour Court-I, Hyderabad and the second appeals were allowed by Judgment, dated 27.08.1990, on the ground that the Shops and Establishments Act is not applicable, therefore, the Labour Court did not go into the other aspects. Thus, the petitioners having no other option raised Industrial disputes, which were taken up as I.D.No.121 of 1995 and batch before the Industrial Tribunal-cum-Labour Court, Hyderabad.

On behalf of the petitioners WW-1 was examined and on behalf of the respondent-management LW-1 was examined. On behalf of the petitioners Exs.W-1 to W-10 were marked, likewise on behalf of the respondents Exs.M-1 to M-11 were marked.

After elaborate consideration of the matter, the Labour Court came to the conclusion that there was no relationship of servant and master between the petitioners and the respondent and the petitioners are therefore, not entitled for any relief and as such dismissed the petitions, hence, this Writ Petition.

A detailed counter-affidavit has been filed by the respondent No.2 denying the allegations made by the petitioners. It is asserted that the hostel located at a

nearby location to that of the Central Training Establishment at Secunderabad is neither an Industry nor an establishment. Unless an establishment is industry, the question of invoking the jurisdiction of the Labour Court does not fall for consideration. It is the specific submission that the hostel located nearby Central Training Establishment is designed to look after the welfare of the trainees. The Central Training Establishment had entered into a contract with a contractor by name M/s Kwality Restaurant, Park lane, Secunderabad for the supply of food and room services. The said contract especially provides that:

a. Employees are solely employees of the contractor.

b. There is no privity of contract between the Central Training Establishment and the employees

c. The Contractor will be solely responsible for complying with the provisions of various enactment from time to time.

Therefore, there was no privity of contract between the petitioners and respondent and thus there was no relationship of servant and master. Further, earlier when the services of the petitioners were terminated by the Kwality Restaurant and when they filed appeal under Section 41 of the Shops and Establishments Act before the Appellate authority, the Second Appeal was allowed on 27.08.1990 holding that the provisions of the Shops and Establishments Act are not applicable.

I have given earnest consideration to the respective submissions made by the learned counsel on either side and perused the Award passed by the Labour Court and other material made available on record.

At the outset, I am of the opinion that the dispute raised by the petitioners is speculative and imaginary in its nature. Admittedly the petitioners are the employees of one M/s Kwality Restaurant and Bar, Park lane, Secunderabad. When their services were terminated on 11.06.1984, they have filed an appeal under Section 41 of the Act, the said appeal was allowed on 29.09.1987. But the respondent herein was also saddle with some liability, therefore, the second appeal was filed under the Shops and Establishes Act before the Labour Court and the Labour Court after an elaborate consideration held that the provisions of the Shops and Establishments Act have no application to the case on hand and thus, allowed the second appeal on 27.08.1990 setting aside the reinstatement order passed by the appellate authority

on 29.09.1987. Having not satisfied with the same, the respondents have raised an industrial dispute under Section 2(A)(7) of the Act. The Labour Court after meticulously considering each and every aspect of the evidence came to the came to the conclusion that there was no servant and master relationship between the petitioners and the respondent and therefore, they are not entitled for any relief. There is no dispute as to the Exs.M1 and M3-Contract Agreements between the Kwality Bar and Restaurant, Secunderabad and the respondent herein. As per those agreements, as noticed above, Kwality Bar and Restaurant, Secunderabad is supposed to supply food items and room services for the trainee students of the respondent organization. Therefore, there was no contract between the petitioners and the respondent, as such the contract was between the respondent and M/s Kwality Bar and Restaurant that to only for the purpose of supply of food items and room services and nothing more.

Learned counsel for the petitioners made a faint effort to say that the petitioners are entitled for certain amounts, which were withheld by the management. It is always open for the petitioners to approach M/s Kwality Bar and Restaurant and claim the said amount, if any, deposited by the management-respondent under any agreement or settlement entered into earlier.

In the light of the evidence before it, the Labour Court has rightly come to the conclusion that there was no servant and master relationship between the petitioners and the respondent-management. I am of the opinion that the Labour Court has not committed any error of law or infirmity calling for interference of this Court under Article 226 of the Constitution of India. No other legal points are raised for consideration of this Court. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

15-07-2005

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To

1. The Presiding Officer, Additional Industrial Tribunal-cum-

Additional Labour Court, Chandravihar

Building, 1st floor, M.J.Road, Hyderabad.

2. The Management of Indian Airlines, Central Training

Establishment, Simulator complex, Hyderabad.

3. 2 CCs to G.P. for Labour, High Court Buildings, Hyderabad

(OUT)

4. 2 CD copies.